

STIC Database Tracking Number:

To: **BARBARA AMELUNXEN**
Location: **KNX 4A39**
Art Unit: **3600**
Date: **November 17, 2010**
Case Serial Number: **10/525,750**

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Search Notes

Dear Examiner **AMELUNXEN** :

Please find attached the results of your search for the above-referenced case. The search was conducted in Dialog, the Internet and EBSCO HOST.

I have listed *potential* references of interest in the first part of the search results. However, please be sure to scan through the entire report. There may be additional references that you might find useful.

If you have any questions about the search, or need a refocus, please do not hesitate to contact me.

Thank you for using the EIC, and we look forward to your next search!

FAST AND FOCUSED

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I. Potential References of Interest

A. Dialog

15/3,K/11 (Item 8 from file: 180)
DIALOG(R) File 180: Federal Register
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DIALOG Accession Number: 02403011 Supplier Number: 961200450
Self-Regulatory Organizations; Notice of Filing of Proposed Rule change by
National Association of Securities Dealers, Inc., Relating to
Implementation of the SEC's Order Handling Rules
Volume: 61 Issue: 235 Page: 64550
CITATION NUMBER: 61 FR 64550
Date: THURSDAY, DECEMBER 5, 1996

TEXT:

...remains a Market Maker in SOES:

(A) to execute individual preferenced SOES orders equal to or smaller than the applicable maximum order size at the best bid or offer as disseminated by Nasdaq in any security for which it is a SOES market maker;
(B) for any NNM security for which it...

...individual unpreferenced SOES orders equal to or smaller than the market maker's displayed quotation size when the market maker's quotation is at the best bid or offer as disseminated by Nasdaq, and, when the market maker's quotation is inferior to the best bid or offer as disseminated by Nasdaq, to execute individual unpreferenced SOES orders up to the lessor of the market maker's displayed quotation size or the smallest quotation size of all the market makers whose quotations are at the best bid or offer as disseminated by Nasdaq.

((A) for any security for which it is a SOES Market Maker, to execute individual orders in sizes equal...obligated for any transaction executed prior to the effectiveness of his withdrawal.

(10) In the event that there are no SOES market makers at the **best bid (offer)** disseminated by Nasdaq, market orders to sell (buy) entered into SOES will be rejected and returned to their respective order entry firms.

(c) SOES...

...to directly advertise their trading interest to the marketplace, thereby

allowing them to compete with market maker quotations and affect the size of bid-ask spreads.⁶ In sum, with the Display Rule, Nasdaq will have order-driven aspects akin to an auction market while retaining its

competing dealer market structure... enhance the independence and competitiveness of dealers quotations in the Nasdaq market.

Note 11 See, e.g., Lee, C., Mucklow, B., and Ready, M, 1993, "Spread, Depth, and the Impact of Earnings Information: An Intraday Analysis," *The Review of Financial Studies*, 6, 345-74; K. Kavajecz, 1995, "A Specialist's Quoted...

... for some firms, particularly smaller firms, to make markets in Nasdaq securities. Finally, allowing market makers to quote smaller markets would likely result in narrower spreads, thereby lowering transaction costs for investors.

ii. Operation of SOES.

At present, all market makers in NNM securities must be registered as SOES market makers...offer

(bid) price), it is placed in the SOES limit order file and will be subsequently executed if the limit price becomes **equal to the best bid or offer**. SOES also has a limit order processing facility that matches limit orders priced inside the spread. Limit orders placed into SOES are never publicly disseminated, they are not included in the calculation of the best bid or offer, and they are not matched against incoming market orders.

Accordingly, the NASD and Nasdaq believes that the current processing of non-marketable limit...s Rules. Nasdaq will include the ECN prices and sizes in the Nasdaq Workstation II quote montage with the ECN MMID and incorporate the ECN price in the Nasdaq best price calculation, i.e., when it is at the **best bid** or offer in the market, its price will be included in the inside price.

Note /22/ Nasdaq currently allows the dissemination of quotations in 1... to add a new subsection to the SOES Rules (Rule 4730(b)(10)) to state that when there are no SOES market makers at the best bid or offer that is being disseminated by Nasdaq, orders entered into SOES will be returned to the order entry firm to permit the order entry...

... moment. Further, because broker-dealers that operate internal automated execution systems drive those execution systems by means of a data stream based on the Nasdaq best bid and offer, those systems may not operate when the inside is locked or crossed.

Accordingly, the NASD and Nasdaq propose to make clear that market...an NASD member acting as agent, represents an institutional order or other non-NASD member order the price of which would lock or cross the best bid or offer in Nasdaq.²⁸ In

other words, under the newly-expanded locked or crossed rule, ECNs must comply with Nasdaq's rule that before...

15/3,K/3 (Item 2 from file: 15)
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01802853 04-53844

Is it efficient to impose costs on small-volume equity traders?

Clyde, Paul S; Reitzes, James D

International Journal of the Economics of Business v6n1 PP: 81-92 Feb 1999

ISSN: 0962-1369 JRNL CODE: INJE

WORD COUNT: 4629

...TEXT: the 'best execution price' available on the Nasdaq screen. Prior to 20 January 1997, the 'best execution price' had come to be defined as the **best bid** (if the market order was a sell order) or ask (if the market order was a buy order) that was posted by a market maker...

...the Nasdaq computer screen.

Limit orders, by definition, are not guaranteed of an execution because they specify a price that may be above the current **best bid** or below the current best offer. However, on Nasdaq prior to January 1997, limit orders were not even exposed to the trading public as part...

...significance of this more clearly, contrast Nasdaq's treatment of limit orders prior to January 1997 with the NYSE (New York Stock Exchange). If the **spread** is 30-30t, and someone enters a limit order to sell at 30% on the NYSE, this would improve the best ask from 30 1/2 to 30 1/4, so the new **spread** is 30-30 1/4. By contrast, if a limit order to sell at 30 1/4 was entered on Nasdaq, the **spread** would have remained at 30-30 1/2 until one of the market makers changed his or her quotes. The limit order was effectively ignored...

...some period of time, it was superior to the price that any market maker was willing to pay. Consequently, public limit orders entered within the **spread** on Nasdaq were filled only when the market has moved to the disadvantage of those entering the orders.

It is worth noting a distinction between...

...losing them as customers. Small-volume traders, on the other hand, had neither the ability nor the leverage to effectively enter limit orders within the **spread**. The treatment of limit orders described in this section therefore applies primarily to small-volume traders.

The treatment of limit orders described above was not...easily. They show that a larger number of Nasdaq stocks are rarely quoted in odd eighths. If limit orders were included in the calculation of **best bid** and offer on Nasdaq, one might guess that many of the stocks in the Christie-Schultz sample would have been quoted in odd-eighths because...on a Nasdaq screen prior to January of 1997. In addition, these investors were unlikely to receive a price that was superior to the inside **spread** when entering a market order. The Small Order Execution System (SOES) allows small market orders to receive the inside bid or ask automatically, but it was unlikely that a call to the broker would result in a trade that was superior to the **best bid** or ask.⁷

The transaction cost to a small trader would sometimes be just the **spread** that the trader was paying. Some brokers charge a transaction or per share fee, but some do not charge any fee. These brokers are instead...

...the order over the telephone, filling an order over SelectNet, or making a trade on Instinet. Since none of these mechanisms were included in the **best price calculations**, they could, and often did, present the opportunity for a trade at a price superior to the inside **spread**. If the customer did not receive a better price, he or she could go to another market maker. Since order flow is the market makers...

...of income, it is more costly to lose a large customer than a small customer. Further, a large institutional trader frequently could trade within the **spread** by bypassing the market maker and directly entering the order (or filling the order) on Instinet. Anyone is free to purchase an Instinet terminal, but...and Zaman (1997) who find that firms that switch from Amex to Nasdaq experience a significant positive stock price effect despite a dramatic increase in **spreads**. **Spreads** (which measure the prices at which the smaller traders transact) may increase as a result of the switch, but the securities that switched may still...

...as the value of the equity decreases.

3. There is also little that can be learned from the effect of the recent rule changes on **spreads**. At least prior to the rule changes, **spreads** were a measure of a component of the trading costs of small traders. **Spreads** were much less relevant for large traders and efforts to develop measures that are relevant for large traders have not been too successful (the price...least two responses to this question. First, by eliminating limit orders, the number of market participants that can free ride at a cost inside the **spread** is decreased significantly. It is rare that there are as many as forty markers in a stock. The average number of market makers in a...

...Marketplace," Georgetown University, School of Business Administration Working Paper, FINC - 1377-29-995, 1995.

Amihud, Y. and Mendelson, H. "Asset Pricing and the Bid-Ask **Spread**," Journal of Financial Economics, 1986 17, pp. 223-49.

Barclay, M. "Bid-Ask **Spreads** and the Avoidance of Odd-eight Quotes on NASDAQ: An Examination of Exchange Listings," Working paper, The Wharton School, Philadelphia, PA, 1995. Christie, W and...

II. Inventor Search Results from Dialog

0 records found.

III. Patent Files from Dialog

A. Patent Databases

Not searched.

IV. All Files from Dialog

A. All Databases

File 1:ERIC 1965-2010/Oct
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File 2:INSPEC 1898-2010/Nov W1
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 (c) 2010 Washington Business Info.
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 (c) format only 2010 Dialog
 File 211:Gale Group Newsearch(TM) 2010/Nov 15
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 File 225:DIALOG(R) Domain Names 1997 - Sep. 2004
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Set	Items	Description
S1	11833	BEST()(BID OR BIDS)
S2	101149	OFFER()(RATE OR RATES OR PRICE OR PRICES)
S3	267257	BEST(3N)(PRICE OR PRICES OR RATE OR RATES)
S4	1308	S3(8N)(ADJUST OR ADJUSTS OR ADJUSTING OR CALCULATE OR CALCULATES OR CALCULATION? ? OR CALCULATING)
S5	770	MINIMUM()(SPREAD OR SPREADS)
S6	9	S5(5N)(GREATER OR SUPERIOR OR LARGER)
S7	11	S5(5N)(EQUAL OR SAME OR LIKE OR IDENTICAL)
S8	182	AU=(RISEMAN, A? OR RISEMAN A? OR HOWORKA, E? OR HOWORKA E? OR ALEXANDER() RISEMAN OR EDWARD(2N)HOWORKA)
S9	112349	S1 OR S2
S10	100	S9 AND S4
S11	0	S10 AND (S6 OR S7)
S12	0	S10 AND S5
S13	0	S8 AND S1
S14	19	S10 AND SPREAD? ?
S15	15	RD (unique items)

15/3,K/1 (Item 1 from file: 14)
 DIALOG(R)File 14: Mechanical and Transport Engineer Abstract
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0004264268 IP ACCESSION NO: 201001-61-1461389
 System and method for calculating optimal rates in a multi-source price engine in over the counter markets

Wilson, Kelly James Fletcher; Rosenwald, Cary David; Gilman, Sean Michael;
 Hartheimer, Richard

, USA

PUBLISHER URL:

<http://patft.uspto.gov/netacgi/nph-Parser?Sect1=PTO2&Sect2=HITOFF&u=/netahtml/PTO/search-adv.htm&r=1&p=1&f=G&l=50&d=PTXT&S1=7627520.PN.&OS=pn/7627520&RS=PN/7627520>

DOCUMENT TYPE: Patent

RECORD TYPE: Abstract

LANGUAGE: English

FILE SEGMENT: Mechanical & Transportation Engineering Abstracts

ABSTRACT:

... The system and method integrate rates from multiple liquidity sources to generate an output rate that can be transacted upon. Specifically, the system and method **calculate a best bid/offer rate** from input rates provided by multiple liquidity sources and apply a target **spread** and minimum profit to the **best bid/offer rate** to generate an optimal output rate. The optimal output rate may be a function of many factors, including market conditions, customer credit, and the preferences...

DESCRIPTORS: Optimization; Marketing; Mathematical analysis; Engines;
Spreads

15/3,K/2 (Item 1 from file: 15)
DIALOG(R)File 15: ABI/Inform(R)
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03353867 1427847531
European cash equity markets: The year of the MTF?
Koh, Peter
Euromoney PP: 1 Jan 2008
ISSN: 0014-2433 JRNL CODE: ERM
WORD COUNT: 1666

...DESCRIPTORS: **Spread**

...ABSTRACT: much more influential in the near future. Consultancy Aite Group estimates that MTFs could capture as much as 20% of the market by 2011. The **spread** of unbundling and of commission-sharing arrangements is also freeing those on the buy side to make more choices about where they want to send...

...TEXT: at one venue then the machine ignores it and moves on, but if attractive liquidity re-appears, it instantly moves in and gets it."

The **spread** of unbundling and of commission-sharing

arrangements is also freeing those on the buy side to make more choices about where they want to send...German regional exchange is set to launch a pan-European trading system that will offer best execution in the form of a European volume-weighted **best bid-offer price** that it will **calculate** from the prices of all displayed order books at exchanges and other MTFs (see Equiduct: evolutionary leapfrog).

Benefits of choice

Projected adoption of multilateral trading...

...Source: Aite Group

The varied market models being proposed can be roughly broken down into three types: high-speed, high-capacity open order books that **offer price** discovery, similar to exchange systems, targeting high-volume users such as investment banks, hedge funds and algorithmic traders; anonymous, non-displayed dark pools, some of...

15/3,K/3 (Item 2 from file: 15)
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Is it efficient to impose costs on small-volume equity traders?
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...significance of this more clearly, contrast Nasdaq's treatment of limit orders prior to January 1997 with the NYSE (New York Stock Exchange). If the **spread** is 30-30t, and someone enters a limit order to sell at 30t on the NYSE, this would improve the best ask from 30 1/2 to 30 1/4, so the new **spread** is 30-30 1/4. By contrast, if a limit order to sell at 30 1/4 was entered on Nasdaq, the **spread** would have remained at 30-30 1/2 until one of the market makers changed his or her quotes. The limit order was effectively ignored...

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...the order over the telephone, filling an order over SelectNet, or making a trade on Instinet. Since none of these mechanisms were included in the **best price calculations**, they could, and often did, present the opportunity for a trade at a price superior to the inside **spread**. If the customer did not receive a better price, he or she could go to another market maker. Since order flow is the market makers...

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Amihud, Y. and Mendelson, H. "Asset Pricing and the Bid-Ask **Spread**," Journal of Financial Economics, 1986 17, pp. 223-49.

Barclay, M. "Bid-Ask **Spreads** and the Avoidance of Odd-eight Quotes on NASDAQ: An Examination of Exchange Listings," Working paper, The Wharton School, Philadelphia, PA, 1995. Christie, W and...

15/3,K/4 (Item 1 from file: 180)
DIALOG(R)File 180: Federal Register
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DIALOG Accession Number: 0003602902 Supplier Number: 75046153
Amendments to Regulation SHO
Volume: 75 Issue: 046 Page: 11232
CITATION NUMBER: 75 FR 11232
Date: Wednesday, March 10, 2010

... execution or display of a short sale order of a covered security at a price that is less than or equal to the current national **best bid** if the price of that covered security decreases by 10% or more from the covered security's closing price as determined by the listing market...

... and procedures reasonably designed to impose this short sale price test restriction for the remainder of the day and the following day when a national **best bid** for the covered security is calculated and disseminated on a current and continuing basis by a plan processor pursuant to an effective national market system...

TEXT:

... on its own determination that it is submitting the short sale order to the trading center at a price that is above the current national **best bid** at the time of submission or to rely on an exception specified in the Rule, it must mark the order as "short exempt." This "short...

... two alternative price tests. The first alternative price test, in many ways similar to NASD's former bid test, would be based on the national **best bid** (the "proposed modified uptick rule"). The second alternative price test, similar to former Rule 10a-1, would be based on the last sale price (the...

... addition, in the Proposal we inquired whether a short sale price test restriction that would permit short selling at a price above the current national **best bid** (the "alternative uptick rule"), would be preferable to the proposed modified uptick rule and the proposed uptick rule. /11/ We sought comment regarding the application ...

... refers to investor trust in the fairness of financial markets. END
FOOTNOTE

By not allowing short sellers to sell at or below the current national **best bid** while the circuit breaker is in effect, the short sale price test restriction in Rule 201 will allow long sellers, who will be able to...

... that is seeking to profit quickly from accelerated, downward market moves may find it advantageous to be able to short sell at the current national **best bid**. In addition, by making such bids accessible only by long sellers when a security's price is undergoing significant downward price pressure, Rule 201 will...

... in this adopting release we are using terms of art as used in the economic literature proceeding under the "efficient markets hypothesis," under which financial **prices** are assumed to reflect all available information and accordingly **adjust** quickly to reflect new information. See, e.g., Eugene F. Fama, 1991, Efficient capital markets: II, Journal of Finance; 46: 1575-1617; Eugene F. Fama...

... on its own determination that it is submitting a short sale order to a trading center at a price that is above the current national **best bid** at the time of submission or to rely on an exception specified in the Rule, it must mark the order "short exempt." /27/ The short...
... be reasonably designed to prevent the execution or display of the order at a price that is less than or equal to the current national

best bid. END FOOTNOTE

II. Background on Short Sale Restrictions

Short selling involves a sale of a security that the seller does not own or a sale...

... included decimalization, the increased use of matching systems that execute trades at independently-derived prices during random times within specific time intervals, /42/ and the **spread** of fully automated markets. In addition, market developments over the years led to the application of different price tests to securities trading in different markets...FOOTNOTE 53 See Staff's Summary Pilot Report at 55. END FOOTNOTE

FOOTNOTE 54 This conclusion is based on the result that changes in effective **spreads** were not economically significant (less than a basis point) and that the changes in the bid and ask depth appear not to affect the transaction...

... of commenters expressed concern that any short sale price test restriction would carry with it the unintended consequences of reduced liquidity and widened bid-ask **spreads**, resulting in less efficient pricing in the securities markets. /90/ One commenter stated its belief that because short sale price test restrictions would weaken and...

...2009") (noting that "[w]e believe there would be significant unintended consequences of the proposed restrictions, including reduction in overall market liquidity and widening of **spreads** * * *"); letter from Leonard J. Amoruso, General Counsel, Knight Capital Group, Inc., dated June 18, 2009 ("Knight Capital (June 2009)"); letter from MFA (June 2009); see... 2008, we took a number of other short sale-related actions aimed at addressing these concerns. For example, due to our concerns that false rumors **spread** by short sellers regarding financial institutions of significance in the U.S. may have fueled market volatility in the securities of some of these institutions...

... discussed in detail below, we are adopting in Rule 201 a targeted short sale price test restriction that will be based on the current national **best bid** and that will apply only if the price of an individual security declines intra-day by 10% or more from that security's prior day...

... because Rule 201 does not impose a ban on short selling but instead continues to allow short selling (although at a price above the national **best bid**) when the short sale price test restriction has been triggered, the Rule's structure will help preserve the benefits of short selling.

FOOTNOTE 128 See...

... of liquidity. /131/ Trading volume itself, as opposed to changes in trading volume, is considered a measure of liquidity, though other measures, such as effective **spreads** and price impact,

are considered by many to be better measures of liquidity and are more commonly used for measuring the liquidity of equities. /132...respect to the permanent, market-wide approach, we proposed two alternative short sale price tests: the proposed modified uptick rule, based on the current national **best bid**, and the proposed uptick rule, based on the last sale price. With respect to the circuit breaker approach, we proposed two alternative circuit breaker tests...

... addition, in the Proposal we inquired whether a short sale price test restriction that would permit short selling at a price above the current national **best bid**, i.e., the alternative uptick rule, would be preferable to the proposed modified uptick rule and the proposed uptick rule. /161/ We sought comment regarding ...

... a comment letter recommending a circuit breaker combined with a price test that would allow short selling only at an increment above the current national **best bid**. See letter from National Stock Exchange, NYSE Euronext, Nasdaq OMX Group, and BATS, dated Mar. 24, 2009 ("National Stock Exchange et al. "). NYSE Euronext, in...

... execution or display of a short sale order of a covered security at a price that is less than or equal to the current national **best bid** if the price of that covered security decreases by 10% or more from the covered security's closing price as determined by the listing market...

... ii) Impose the requirements of paragraph (b)(1)(i) of this section for the remainder of the day and the following day when a national **best bid** for the covered security is calculated and disseminated on a current and continuing basis by a plan processor pursuant to an effective national market system...

... to prevent it from executing or displaying any short sale order, absent an exception, at a price that is equal to or below the national **best bid** if the price of that security decreases by 10% or more from the security's closing price as determined by the listing market for the...

...FOOTNOTE

Several commenters, however, expressed support for the application of a price test only to NMS stocks. /183/ Several commenters noted that the current national **best bid** and offer are not currently collected, consolidated and disseminated for non-NMS stocks quoted on the OTC Bulletin Board or elsewhere in the OTC market...

... we are not applying Rule 201 to non-NMS stocks quoted on the OTC Bulletin Board or elsewhere in the OTC market because a national **best bid** and offer currently is not required to be collected, consolidated, and disseminated for such securities. /187/ Rule 201 is based on the current national **best bid** and its implementation requires that the national **best bid**

is collected, consolidated and disseminated to market participants. Although several commenters indicated that it would be possible for non-NMS stocks quoted on the OTC Bulletin Board or elsewhere in the OTC market to join or create a national plan for disseminating consolidated national **best bid** information for such stocks,

/188/ we are concerned that this would be a significant undertaking that would add greatly to the implementation time and cost of Rule 201, particularly in light of comments that the implementation process may be complex even for those securities for which the national **best bid** is currently collected, consolidated, and disseminated. /189/

FOOTNOTE 187 As noted above, former Rule 10a-1 also did not apply to non-exchange listed securities...

...that it "would be willing to join the current Tape C UTP network or work with FINRA to create an OTC/UTP Plan including the **best bid and offer prices** < / **B&G best bid can change rapidly and repeatedly and potentially there might be latencies in obtaining data regarding the national best bid.** / 203/

15/3,K/5 (Item 2 from file: 180)
DIALOG(R)File 180: Federal Register
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DIALOG Accession Number: 0003587129 Supplier Number: 74164151
Truth in Lending
Volume: 74 Issue: 164 Page: 43232
CITATION NUMBER: 74 FR 43232
Date: Wednesday, August 26, 2009

TEXT:

... to disclose the APR in 16-point font in close proximity to a graph that compares the consumer's APR to the HOEPA average prime offer rate for borrowers with excellent credit and the HOEPA threshold for higher-priced loans. This disclosure would put the APR in context and help consumers understand...

...charge for the insurance.

E. Prohibitions on Payments to Loan Originators and Steering

Currently, creditors pay commissions to loan originators in the form of "yield spread premiums." A yield spread < / B & G spread premiums can create financial incentives to steer consumers to riskier loans for which loan originators will receive greater compensation. Consumers generally are not aware of loan originators' conflict of interest and cannot reasonably protect themselves against it. Yield spread premiums may provide some benefit to consumers because consumers do not have to pay loan originators'

compensation in cash or through financing. However, the Board...undertaken by HUD suggests that borrowers experience great difficulty when deciding whether the tradeoff between paying higher up-front costs or paying a higher interest rate is in their best interest, and that borrowers who do not pay up-front loan origination fees generally pay less than borrowers who do pay such fees. /24/ To...

... absolute number of loans covered would increase markedly--more than 350 percent. Because the HMDA data do not include APRs for loans below the rate spread reporting thresholds, See 12 CFR 203.4(a)(12), 2006 LPS data were used to estimate the impact on coverage of SEC 226.35. Based...2)

In its final rule implementing new requirements for higher-priced mortgage loans, 73 FR 44522; July 30, 2008, the Board adopted the "average prime offer rate" as the benchmark for coverage of new SEC 226.35. In so doing, the Board adopted commentary under new SEC 226.35(a)(2) regarding the calculation of the average prime offer rate and related guidance. Comment 35(a)(2)-4 indicated that the Board publishes average prime offer rates and the methodology for their calculation on the Internet. The Board is proposing to amend comment 35(a)(2)-4 to specify where on the...

...www.ffiec.gov/hmda).

The Board also is proposing new comment 35(a)(2)-5 to provide additional guidance on determination of applicable average prime offer rates for purposes of SEC 226.35. The comment would clarify that the average prime offer rate is defined identically under SEC 226.35 and under Regulation C (HMDA), 12 CFR 203.4(a)(12)(ii). Thus, for purposes of both coverage of SEC 226.35 and coverage of the rate spread reporting requirement under Regulation C, 12 CFR 203.4(a)(12)(i), the applicable average prime offer rate is identical. The comment would clarify further that guidance on the applicable average prime offer rate is provided in the staff commentary under Regulation C, the Board's A Guide to HMDA Reporting: Getting it Right!, and the relevant "Frequently Asked...

15/3,K/6 (Item 3 from file: 180)
DIALOG(R)File 180: Federal Register
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DIALOG Accession Number: 03341431 Supplier Number: 70124131
Regulation NMS
Volume: 70 Issue: 124 Page: 37496
CITATION NUMBER: 70 FR 37496
Date: Wednesday, June 29, 2005

TEXT:

... formally declared a trading halt pursuant to its rules or written procedures. Thus, the exception would not include a situation where a trading center merely spread its quotations or switched back to automated quotation mode from manual quotation mode. /190/

FOOTNOTE 189 See section III.D.3 of the Proposing Release...

... that pursuant to Rule 611(b)(8) trading centers would be entitled to trade at any price equal to or better than the least aggressive best bid or best offer, as applicable, displayed by the other trading center during that one-second window. For example, if the best bid price displayed by another trading center has flickered between \$10.00 and \$10.01 during the one-second window, the trading center that received the ... raised a serious concern regarding implementation of the Order Protection Rule, particularly for many Nasdaq stocks that are very actively traded and whose trading is spread across many different individual trading centers. An exemption for active stocks, however, would be particularly inconsistent with the investor protection objectives of the Order Protection...

... innovate to attract both marketable orders and limit orders. Market participants and intermediaries responsible for routing marketable orders, consistent with their desire to achieve the best price and their duty of best execution, will continue to rank trading centers according to the total range of services provided by those markets. Such services include cost, speed of response...

... such an "outlier" market, Rule 610(c) sets forth a uniform fee limitation for accessing protected quotations, as well as manual quotations that are the best bid or best offer of an exchange, The NASDAQ Market Center, or the ADF. END FOOTNOTE

Commenters have, however, identified a troubling potential for intermarket price...

... unsatisfactory services. Under the Order Protection Rule, market participants can limit their involvement with any trading center to routing IOC orders to access only the best bid or best offer of the trading center. Nevertheless, even this limited involvement potentially could lessen the competitive discipline that otherwise would be imposed on an...

... types of investors. Moreover, their interests are inextricably linked together. Displayed limit orders are the primary source of public price discovery. They typically set quoted spreads, supply liquidity, and in general establish the public "market" for a stock. The quality of execution for marketable orders, which, in turn, trade with displayed liquidity, depends to a great extent on the quality of markets established by limit orders (i.e., the narrowness of quoted spreads and the available liquidity at various price levels).

Limit orders, however, make the first move--when submitted, they must be displayed rather than executed, and... UBS suggested limiting the applicability of the exception to instances where the stop price is "in the money" when elected (i.e. , below the current best bid for buy stops and above the current best offer for sell stops). In these circumstances, the dealer is required to commit capital at a disadvantageous...

...trading center of a stopped order when the price of the execution of the order was, for a stopped buy order, lower than the national best bid in the stock at the time of execution or, for a stopped sell order, higher than the national best offer in the stock at the...

... the execution of the other trade. Thus, the parties to these transactions are less concerned with the price of the individual transactions than with the spread between the individual transaction prices. They believed that the economics of these transactions would be distorted, and additional risk would be introduced, if the dealer ...

... deal of consideration to the comments favoring a general exception from Rule 611 for broad categories of transactions, variously described as "contingency" transactions, "arbitrage" transactions, "spread" transactions, and transactions priced with reference to derivatives.

Any exception for such a broad category of transactions, however, potentially could unduly detract from the price...

... regulatory status of an SRO. Under Exchange Act Rule 11Ac1-1 ("Quote Rule") (redesignated as Rule 602), exchange SROs are required to provide only their best bids and offers ("BBOs") in a stock. In contrast, a national securities association, which currently encompasses Nasdaq's trading facilities and the NASD's ADF, must ...

15/3,K/7 (Item 4 from file: 180)
DIALOG(R)File 180: Federal Register
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DIALOG Accession Number: 03308573 Supplier Number: 70018137
Medicare Program; Medicare Prescription Drug Benefit
Volume: 70 Issue: 018 Page: 4194
CITATION NUMBER: 70 FR 4194
Date: Friday, January 28, 2005

TEXT:

...PD plans through the price comparison tool. Therefore, we will keep this requirement.

Comment: One commenter expressed a general concern with the disclosure of negotiated prices and the negative impact that disclosure of such information could have on competition. The commenter further noted that negotiated prices may be subject to confidentiality...

the notice requirements under SEC 423.56(c). We also note that PACE plans and section 1876 of the Act cost plans that do not offer qualified prescription drug coverage must provide notices, as required. To ensure that Part D plan members understand their options, we will ensure that an explanation...that same area.

Similarly, as provided under section 1860D-21(a)(1)(A) of the Act, beginning on January 1, 2006, an MA organization cannot offer an MA coordinated care plan in a service area unless that plan, or another MA plan offered by the same organization in the same service...

... either directly or through contracts with other organizations of the financial statements and records of Part D sponsors pertaining to the Part D plans they offer. As required in section 1860D-2(d)(3) of the Act, this auditing will be performed with the ultimate goal of protecting the Medicare program...

... that purpose. The issue of effects on Medicaid best price is discussed in the impact analysis.

Comment: One commenter asked for further guidance regarding the "best price" exemption, stating that Part D providers should be able to negotiate simultaneously for commercial prices, which would count toward "best price," and for Medicare/qualified ...

... and Part D plans. Consequently, we cannot prohibit or require Part D plans from negotiating simultaneously for commercial prices, which would be included in the calculation of the Medicaid drug rebate best price, and Medicare prices, which would not be included in the calculation of the Medicaid drug rebate best price. If Part D plans wish to simultaneously negotiate their commercial and Medicare prices, they are free to do so.

Comment: One commenter suggested that we...

15/3,K/8 (Item 5 from file: 180)
DIALOG(R)File 180: Federal Register
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DIALOG Accession Number: 03286539 Supplier Number: 69211113
HUD's Housing Goals for the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) for the Years 2005-2008 and Amendments to HUD's Regulation of Fannie Mae and

Freddie Mac
Volume: 69 Issue: 211 Page: 63580
CITATION NUMBER: 69 FR 63580
Date: Tuesday, November 2, 2004

15/3,K/9 (Item 6 from file: 180)
DIALOG(R)File 180: Federal Register
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DIALOG Accession Number: 03262717 Supplier Number: 69124103
Control of Emissions of Air Pollution From Nonroad Diesel Engines and Fuel
Volume: 69 Issue: 124 Page: 38958
CITATION NUMBER: 69 FR 38958
Date: Tuesday, June 29, 2004

TEXT:

...engine and equipment manufacturers. They also are phased in over time to allow for the orderly transfer of technology from the highway sector, and to spread the overall workload for engine and equipment manufacturers engaged in redesigning a large number and variety of products for Tier 4.

As we explained at...

... the 2011 model year. Engines of 75- 175 hp are subject to the new standards in the following model year, 2012, reflecting the need to spread the redesign workload and, to some extent, the greater effort that may be involved in adapting highway technologies to these engines. Engines between 25 and 75 hp are subject to new standards for PM based on high-efficiency exhaust emission controls in 2013, reflecting again the need to spread the workload and the challenge of adapting this technology to these engines which typically do not have highway counterparts. Engines over 750 hp involve a...engines (credit generators) and the rest as "phase-in" engines (credit users) with a net credit balance of zero, while avoiding the burden of actually calculating and tracking credits. This was also consistent with our approach under the 2007 highway engine program from which this concept is derived.

However, because this...

15/3,K/10 (Item 7 from file: 180)
DIALOG(R)File 180: Federal Register

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DIALOG Accession Number: 02406560 Supplier Number: 970101186
Self-Regulatory Organizations; National Association of Securities Dealers,
Inc.; Order Granting Partial Approval and Notice of Filing and Order
Granting Accelerated Approval of Amendment No. 1 to Proposed Rule Change
Relating to Implementation of the Commission's Order Handling Rules
Volume: 62 Issue: 11 Page: 2415
CITATION NUMBER: 62 FR 2415
Date: THURSDAY, JANUARY 16, 1997

TEXT:

... over-the-counter ("OTC") market maker's quote or that adds to the size associated with such quote if that quote is at the national best bid or offer ("NBBO"). An OTC market maker who receives a customer limit order meeting these parameters must immediately: (1) change its quote and the size...currently accepts limit orders. If a limit order is not immediately executable, or non-marketable, (i.e., a limit order to buy priced below the offer price, or a limit order to sell priced above the bid price), it is placed in the SOES limit order file and subsequently executed if the best bid for a buy, or offer for a sell order becomes equal to the limit price. Limit orders placed into SOES are never publicly disseminated, included in the calculation of the best bid or offer, or matched against incoming market orders. Thus, an OTC market maker that places a customer limit order into the SOES limit order facility... orders and limit orders. If a limit order is not immediately executable, or non-marketable, (i.e., a limit order to buy priced below the offer price, or a limit order to sell priced above the bid price) it is placed in the SOES limit order file and subsequently executed if the limit price becomes equal to the best bid or offer. Limit orders placed into SOES are never publicly disseminated, included in the calculation of the best bid or offer, or matched against incoming market orders. The NASD maintains that the processing of such orders conflicts with the requirements of the Display Rule...s Rules. Nasdaq would include the ECN prices and sizes in the Nasdaq Workstation II quote montage with the ECN MMID and incorporate the ECN price in the Nasdaq best price calculation. When the ECN is at the best bid or offer in the market, its price would be included in the NBBO.

Note 28 ECNs often display priced orders that are quoted in finer...market makers and therefore are not accessible through SOES.

Proposed Rule 4730(b)(10) provides that if there are no SOES market makers at the best bid or offer that is being disseminated by Nasdaq, orders entered into SOES will be returned to the order entry firm to permit the order entry...an NASD member acting as agent, represents an institutional order or other non-NASD member order the price of which would lock or cross the best bid or offer in Nasdaq. Therefore, under the proposed

locked and crossed markets rule, NASD members using ECNs, and ECNs themselves for non-member orders, must...securities. As discussed below, factors to be considered in this evaluation include, among others, the impact of reduced quotation sizes on liquidity, volatility and quotation spreads. The Commission believes that the quote size amendment is consistent with the Sections 11A and 15 of the Act both for proprietary and limit order...

...500 most actively traded securities, range in median daily dollar volume from first to 478th, cover a range of industry sectors, and have an average spread ranging from 1/8 to over one dollar.

The Commission believes that when an OTC market ...the reduction of minimum quotation sizes for market maker quotes is the belief that greater quotation flexibility is likely to lead to narrowing of the spread. Reducing the quotation size requirement reduces the risk that market makers must take, and should encourage them to quote more aggressive prices.⁷¹ Thus, the...

... believes even if there were a decline in quoted depth in certain securities, many investors in those securities may well receive better executions with narrower spreads.

Note 71 See All-Tech Letter (11/22/96); Kaneti Letter; Petrov Letter. See supra note 58. Even opponents of change recognize that reducing the mandatory size for quotations reduces market maker risk.

Even if the spread is not narrowed, reducing the required quotation size could encourage continued and even increased market maker participation at the inside market other prices to the...

... of limit orders and a larger market maker quote size. As noted below, the Commission has requested that the NASD study include information on the spreads and number of market makers of the 50 stocks that are the subject of the pilot program.⁷³

Note 72 Adopting Release, supra note 6.

Note 73 The Commission is aware of several articles associating smaller quote sizes with narrower spreads. See Bacidore, The Impact of Decimalization on Market Quality: An Empirical Investigation of the Toronto Stock Exchange (Revised: July 1996); Harris, Minimum Price Variations, Discrete Bid-Ask Spreads, and Quotation Sizes, Review of Financial Studies 7 (1994); Copeland, T. and Galai D., Information Effects of the Bid-Ask Spread, 38 Journal of Finance (1983). Although cognizant of distinctions in the relevant markets involved in these studies that make comparisons with the Nasdaq market nondefinitive...liquid Nasdaq securities.

The number of market makers in these stocks presently ranges from a low of three to a high of 49. The inside spread ranges from 1/8 to \$1 and the price ranges from approximately \$9 to \$141 with an average price of \$44.50. The current 1000...

15/3,K/11 (Item 8 from file: 180)
DIALOG(R)File 180: Federal Register
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DIALOG Accession Number: 02403011 Supplier Number: 961200450
Self-Regulatory Organizations; Notice of Filing of Proposed Rule change by
National Association of Securities Dealers, Inc., Relating to
Implementation of the SEC's Order Handling Rules
Volume: 61 Issue: 235 Page: 64550
CITATION NUMBER: 61 FR 64550
Date: THURSDAY, DECEMBER 5, 1996

TEXT:

...remains a Market Maker in SOES:

(A) to execute individual preferenced SOES orders equal to or smaller than the applicable maximum order size at the best bid or offer as disseminated by Nasdaq in any security for which it is a SOES market maker;

(B) for any NNM security for which it...

...individual unpreferenced SOES orders equal to or smaller than the market maker's displayed quotation size when the market maker's quotation is at the best bid or offer as disseminated by Nasdaq, and, when the market maker's quotation is inferior to the best bid or offer as disseminated by Nasdaq, to execute individual unpreferenced SOES orders up to the lesser of the market maker's displayed quotation size or the smallest quotation size of all the market makers whose quotations are at the best bid or offer as disseminated by Nasdaq.

((A) for any security for which it is a SOES Market Maker, to execute individual orders in sizes equal...obligated for any transaction executed prior to the effectiveness of his withdrawal.

(10) In the event that there are no SOES market makers at the best bid (offer) disseminated by Nasdaq, market orders to sell (buy) entered into SOES will be rejected and returned to their respective order entry firms.

(c) SOES...

...to directly advertise their trading interest to the marketplace, thereby allowing them to compete with market maker quotations and affect the size of bid-ask spreads.⁶ In sum, with the Display Rule, Nasdaq will have order-driven aspects akin to an auction market while retaining its competing dealer market structure...enhance the independence and competitiveness of dealers quotations in the Nasdaq market.

Note 11 See, e.g., Lee, C., Mucklow, B., and Ready, M, 1993, "Spread, Depth, and the Impact of Earnings Information:

An Intraday Analysis," The Review of Financial Studies, 6, 345-74; K. Kavajecz, 1995, "A Specialist's Quoted...

... for some firms, particularly smaller firms, to make markets in Nasdaq securities. Finally, allowing market makers to quote smaller markets would likely result in narrower spreads, thereby lowering transaction costs for investors.

ii. Operation of SOES.

At present, all market makers in NNM securities must be registered as SOES market makers...offer

(bid) price), it is placed in the SOES limit order file and will be subsequently executed if the limit price becomes equal to the best bid or offer. SOES also has a limit order processing facility that matches limit orders priced inside the spread. Limit orders placed into SOES are never publicly disseminated, they are not included in the calculation of the best bid or offer, and they are not matched against incoming market orders.

Accordingly, the NASD and Nasdaq believes that the current processing of non-marketable limit...s Rules. Nasdaq will include the ECN prices and sizes in the Nasdaq Workstation II quote montage with the ECN MMID and incorporate the ECN price in the Nasdaq best price calculation, i.e., when it is at the best bid or offer in the market, its price will be included in the inside price.

Note /22/ Nasdaq currently allows the dissemination of quotations in 1... to add a new subsection to the SOES Rules (Rule 4730(b)(10)) to state that when there are no SOES market makers at the best bid or offer that is being disseminated by Nasdaq, orders entered into SOES will be returned to the order entry firm to permit the order entry...

... moment. Further, because broker-dealers that operate internal automated execution systems drive those execution systems by means of a data stream based on the Nasdaq best bid and offer, those systems may not operate when the inside is locked or crossed.

Accordingly, the NASD and Nasdaq propose to make clear that market...an NASD member acting as agent, represents an institutional order or other non-NASD member order the price of which would lock or cross the best bid or offer in Nasdaq.²⁸ In other words, under the newly-expanded locked or crossed rule, ECNs must comply with Nasdaq's rule that before...

15/3,K/12 (Item 9 from file: 180)
DIALOG(R)File 180: Federal Register
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DIALOG Accession Number: 02391182 Supplier Number: 960501947
Promoting Wholesale Competition Through Open Access Non-Discriminatory
Transmission Service by Public Utilities; Recovery of Stranded Costs by
Public Utilities and Transmitting Utilities
Volume: 61 Issue: 92 Page: 21540
CITATION NUMBER: 61 FR 21540
Date: FRIDAY, MAY 10, 1996

TEXT:

... the assignor from liability if the assignee meets the transmission provider's creditworthiness requirements as set forth in its tariff and agrees to pay the price the assignor is obligated to pay the transmission provider.

c. Price Cap

We conclude that the rate for any capacity reassignment must be capped by ... above, the customer may also secure the second group of ancillary service from a third party or by self-supply.

Note 385 The requirement to offer to act as agent is in lieu of the requirement for the transmission provider to supply the ancillary service to the transmission customer. Many commenters...service) that can be offered at rates that are less than the total of individual charges for the services if purchased separately. It may also offer rate discounts on any ancillary service. If a rate discount is offered to the transmission owner itself or to an affiliate of the transmission owner, the...

15/3,K/13 (Item 10 from file: 180)
DIALOG(R)File 180: Federal Register
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DIALOG Accession Number: 02383755 Supplier Number: 960802662
Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by
the Pacific Stock Exchange Incorporated Relating to Its Rule on the
Evaluation of Its Equity Specialists
Volume: 61 Issue: 168 Page: 44376
CITATION NUMBER: 61 FR 44376
Date: WEDNESDAY, AUGUST 28, 1996

TEXT:

... that traded between the quote at the time of execution. Each time a trade is executed, the primary market quote will be noted. If the spread of that quote is two or more trading fractions apart, that trade will count as one eligible for the comparison of the execution price to...

...2

5-10	1
0-4	0

"Executions in Size Greater Than BBO" measures the number of market and marketable limit orders which exceed the best bid and offer ("BBO") size.

When a market or marketable limit order is executed, the order must meet two tests to be counted: first, the original...

... the specialist adequately represent brokers' orders in the quotes?; and Does the specialist allow for each facilitation of crosses?

c. Book Display Time. This criterion calculates the percentage of the book shares at the best price in the book that are displayed in the specialist's quote, by symbol, and the duration of time that each percentage is in effect.

This...trade per post and symbol as they occur during the extended trading session.

2. Specialists are not subject to the post-1 p.m. quote-spread parameters until after 1:10 p.m. This allows the specialists time to do any primary market runoff business that is necessary.

3. The specialist...

...bid price is less than \$50.00, or 200 shares if the primary bid price is \$50.00 or more.

5. The specialist's quote-spread parameters must apply to a minimum of 25% of the stocks traded at the post to receive full credit on the evaluation (i.e., 10...

... 37. During the nine month pilot, the Exchange will re-program its computer program so that the following three criteria are based upon the national best bid and offer instead of the primary market bid and offer: Trading Between the Quote, Book Display Time, and Quote Performance./4/ Also, during the pilot...

15/3,K/14 (Item 11 from file: 180)

DIALOG(R)File 180: Federal Register
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DIALOG Accession Number: 02376220 Supplier Number: 961000780
Self-Regulatory Organizations; Pacific Stock Exchange Incorporated; Order
Granting Approval to Proposed Rule Change Relating to Its Rule on the
Evaluation of Its Equity Specialists
Volume: 61 Issue: 196 Page: 52820
CITATION NUMBER: 61 FR 52820
Date: TUESDAY, OCTOBER 8, 1996

TEXT:

... that traded between the quote at the time of execution. Each time a trade is executed, the primary market quote will be noted. If the spread of that quote is two or more trading fractions apart, that trade will count as one eligible for the comparison of the execution price to...

...2

5-10	1
0- 4	0

Executions in Size Greater Than BBO measures the number of market and marketable limit orders which exceed the best bid and offer ("BBO") size.

When a market or marketable limit order is executed, the order must meet two tests to be counted: first, the original...

... the specialist adequately represent brokers' orders in the quotes?; and Does the specialist allow for easy facilitation of crosses?

c. Book Display Time

This criterion calculates the percentage of the book shares at the best price in the book that are displayed in the specialist's quote, by symbol, and the duration of time that each percentage is in effect. This...

... trade per post and symbol as they occur during the Extended Trading Session.

2. Specialists are not subject to the post-1 p.m quote-spread parameters until after 1:10 p.m. This allows the specialists time to do any primary market runoff business ...bid price is less than \$50.00, or 200 shares if the primary bid price is \$50.00 or more.

5. The specialist's quote-spread parameters must apply to a minimum of 25% of the stocks traded at the post to receive full credit on the evaluation (i.e, 10...
... represented that during the nine month pilot, it will re-program its computer program so that the following three criteria are based upon the national best bid and offer ("NBBO") instead of the primary market bid and offer: Trading Between the Quote,

Book Display Time, and Quote Performance./6/ The Exchange also...

15/3,K/15 (Item 12 from file: 180)
DIALOG(R)File 180: Federal Register
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DIALOG Accession Number: 02106606 Supplier Number: 880901118
Certain Provisions of the Agricultural Credit Act of 1987 and Additional
Amendments of Portions of Farmer Program Regulations
Volume: 53 Issue: 178 Page: 35638
CITATION NUMBER: 53 FR 35638
Date: WEDNESDAY, SEPTEMBER 14, 1988

TEXT:

...5 acres to 10 acres.

4. The requirement of gross annual farm/land sales of at least \$40,000 has been deleted.

5. The purchase price is the market value when an applicant exercises the option.

6. The borrower may request debt settlement for the existing balance of the FmHA debt...in evaluation is most important. The County Supervisor will calculate the capitalization rate from the comparable sales used to complete the appraisal. The formula for calculating the capitalization rate is: Cap rate--Net Income/Selling Price . The following techniques can be used to find the capitalization rate:
(

